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Attorneys for Defendant
Johnson & Johnson Consumer Inc. (improperly named as
Defendant Johnson & Johnson Consumer Companies, Inc.)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JILLIAN GALLAGHER, on Behalf of Herself And All Others Similarly Situated, Plaintiff, v. JOHNSON & JOHNSON CONSUMER COMPANIES, INC. Defendant.	Civil Action No. **NOTICE OF REMOVAL AND COPIES OF ALL PROCESS AND PLEADINGS**

To: The United States District Court for the District of New Jersey, Camden Division

PLEASE TAKE NOTICE that Johnson & Johnson Consumer Inc. (improperly named as Defendant Johnson & Johnson Consumer Companies, Inc. (hereinafter "JJC")), pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, respectfully requests that this action be removed from the Superior Court of New Jersey, Camden County, Law Division, to this Court.

In support of this Notice of Removal, JJC states the following:

I. SUMMARY OF BASIS FOR REMOVAL

1. The factual allegations of the Complaint in this Action are virtually identical to those in the Class Action Complaint previously pending before this Court, *Lieberson, et al. v. Johnson and Johnson Consumer Companies, Inc.*, Case No. 3:13-cv-00610-FLW-DEA ("*Lieberson*"), which was dismissed with prejudice on June 20, 2014 by the proposed Class Plaintiffs' Counsel in this Action after the Third Circuit's ruling on class certification in *Carrera v. Bayer Corp.*, 727 F.3d 300 (3rd Cir. 2013).

2. The Complaint's factual allegations are also virtually identical to the allegations of three similar federal class actions filed concurrently with this Action by the same proposed Class Plaintiff's Counsel:

- *Jinette Hidalgo, on behalf of herself and all others similarly situated v. Johnson & Johnson Consumer Companies, Inc.*, United States District Court Southern District of New York, Case No. 1:15-cv-05119, filed on July 2, 2015.
- *Stephanie Leiner, Individually and On Behalf of Herself and All Others Similarly Situated v. Johnson & Johnson Consumer Companies, Inc.*, United States District Court Northern District of Illinois, Case No. 1:15-cv-05876, filed on July 2, 2015.
- *Jacqueline Real, Individually and On Behalf of Herself and All Others Similarly Situated v. Johnson & Johnson Consumer Companies, Inc.*, United States District Court Central District of California, Case No. 2:15-cv-05025-SVW-JEM, filed on July 2, 2015.

3. As set forth more specifically below, this Action is removed under the Class Action Fairness Act ("CAFA"), 28 U.S.C. Section 1332(d).

II. TIMELINESS OF REMOVAL

4. Plaintiff Jillian Gallagher ("Gallagher") commenced this action by filing a Class Action Complaint (the "Complaint") against JJC on or about July 2, 2015 in the Superior Court of New Jersey, Camden County under the caption *Jillian Gallagher v. Johnson & Johnson Consumer Companies, Inc.*, Docket No. L-2557-15 (the "State Action"). The Complaint was served on JJC on July 28, 2015. This removal was filed within thirty (30) days of service of the Complaint on JJC and is, therefore, timely. 28 U.S.C. § 1446(b); *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (notice of removal is timely under 28 U.S.C. § 1446(b) if filed within 30 days after service of the complaint).

5. A true and correct copy of the Summons, Complaint, Case Information Statement, and Acknowledgement of Service of Complaint & Summons in the State Action are attached hereto as Exhibit A. These papers are the only process or pleadings served on JJC or other related papers in the State Action as of the date of this Notice of Removal.

6. A copy of the filing letter accompanying this Notice of Removal provided to the Clerk of the Superior Court of New Jersey, Camden County, Law Division is annexed hereto as Exhibit B.

7. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure as required by 28 U.S.C. § 1446 (a).

III. JURISDICTION OF THE COURT

8. The United States District Court for New Jersey has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332 because:

- The State Action is a "class action" as defined in 28 U.S.C. § 1332(d)(1)(B);
- There is diversity because at least one member of the proposed class of plaintiffs is a citizen of a different state than JJC, or a citizen of a foreign country pursuant to 28

U.S.C. § 1332(d)(2(A)-(B); and

- The amount in controversy based on the aggregation of the proposed class members' alleged claims exceeds $5,000,000.00, exclusive of interests and costs pursuant to 28 U.S.C. § 1332(d)(2) and (6).

Diversity jurisdiction is more particularly set forth in the following paragraphs.

A. This is a Class Action Matter

9. This action was filed as a putative class action under section 4:32 of the New Jersey Rules of Civil Procedure, which governs class actions. Compl. ¶ 48. The Complaint alleges that "Plaintiff brings this action as a class action . . . seeking injunctive and other relief on behalf of herself and all other similarly situated members of the Class . . . ." Compl. ¶ 48. Accordingly, this is a "class action" as defined in 28 U.S.C. § 1332(d)(1)(B).

B. The Diversity Requirement is Satisfied

10. At the time the State Action was filed, at the time of the filing of this Notice of Removal, and at all intervening times, defendant JJC was and is a corporation duly organized and existing under the laws of the State of New Jersey, with its principal place of business in Skillman, New Jersey. JJC is therefore deemed to be a citizen of the State of New Jersey. 28 U.S.C. § 1332 (c)(1).

11. At the time the State Action was filed, plaintiff Jillian Gallagher was a New Jersey resident. Compl. at ¶ 11. As of the date of filing of this Notice of Removal, upon information and belief, the citizenship of plaintiff Jillian Gallagher remains the same.

12. The proposed plaintiff class members are the persons and entities (named or unnamed) who fall within the definition of the proposed plaintiff class. 28 U.S.C. 1332(d)(1)(D).

13. Under CAFA, the citizenship of members of the proposed plaintiff class is

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determined as of the date of filing the Complaint. 28 U.S.C. § 1332(d)(7). The Complaint in the State Action was filed on July 2, 2015.

14. The Complaint broadly construes the proposed class members as purchasers of the Bedtime Product, and focuses on the location of their purchases—New Jersey. For example the Complaint:

- provides that it "***seeks to provide redress to consumers in New Jersey*** who have been harmed by the false and misleading marketing practices" "which were "intended to induce unsuspecting customers, including Plaintiff and members of the Class, into purchasing the more expensive Bedtime Products . . . ." Compl. at ¶ 5 (emphasis added).
- describes the class action as "brought against J&J for the benefit and protection of ***all purchasers of the Bedtime Products in New Jersey.*"** *Id.* at ¶ 13 (emphasis added).

The Complaint often omits any reference to New Jersey with regard to the proposed class members. For example, it states broadly in its preliminary allegations that: "Plaintiff brings this action to ***obtain redress for those who have purchased Bedtime Products***." *Id.* at ¶ 6 (emphasis added). Thus, the Complaint, overall, broadly construes the proposed class as purchasers of the Bedtime Products, and it appears, specifically, those who made their purchases in New Jersey.

15. The Complaint at one point ambiguously defines the proposed plaintiff class as "All New Jersey citizens who purchased the Bedtime Products within New Jersey, not for resale or assignment" ("Class Definition"). Compl. at ¶ 48. However, this language is contradicted by the remainder of the Complaint's broad construction of its plaintiff class members as "purchasers in New Jersey." None of the other allegations rely on New Jersey citizenship.

16. The Class Definition also does not define *when* the purported class plaintiffs were New Jersey citizens, *e.g.*, at the time of the filing of the litigation, at the time of purchasing the

Bedtime Products, or both. Thus the Class Definition encompasses putative class members who at the time of the filing of the Complaint were not New Jersey citizens and putative class members who were not New Jersey citizens at the time of their purchase but have since moved to New Jersey and become citizens of New Jersey although citizens of another state at the time of their purchase.

17. The large metropolitan areas encompassing New Jersey have and at all relevant times have had high numbers of citizenship transiency in and out of New Jersey from the adjoining states of New York, Pennsylvania and Delaware. As a result, a now current New York citizen, *formerly a New Jersey citizen*, would qualify for the proposed class, and vice versa, so would a *now current New Jersey citizen*, formerly a New York citizen at the time of the alleged purchase under New York law. *See e.g.*, https://www.census.gov/newsroom/releases/archives /mobility_of_the_population/cb12-240.html (in 2011, there were 41,450 movers from New Jersey to New York, and 40,815 movers from New York to New Jersey). The same applies to states such as Pennsylvania. *See e.g.*, United States Census Bureau, State-to-State Migration Flows Webpage, Table for 2013 State-to-State Migration Flows, https://www.census.gov/hhes /migration/data/acs/state-to-state.html (in 2013, there were 36,413 movers from New Jersey to Pennsylvania, and 19,547 movers from Pennsylvania to New Jersey).

18. Thus, in addition to New Jersey citizens as of the date of the Complaint's filing on July 2, 2015, persons and entities who were not citizens of New Jersey who purchased Bedtime Products in New Jersey since 2000 (when JJC launched its Bedtime Products), fall within the Class Definition. Such purchasers include, without limitation:

- Citizens of foreign countries who reside in New Jersey;
- Temporary residents of New Jersey (such as college students), who are citizens of other countries or states;

- Persons who resided in New Jersey at the time of their purchase, who later moved and became citizens of other states prior to July 2, 2015 such as New York, Pennsylvania, and Delaware; and
- Citizens of New York, Pennsylvania, and Delaware who visit or commute to New Jersey but purchased the products at issue in New Jersey.

19. As a result, at least one member of the proposed plaintiff class is and was at the time of the filing of the action a citizen of a state different from JJC, *i.e.*, a state different from New Jersey. Thus, the diversity necessary for removal of this putative class action under 28 U.S.C. § 1332(d)(2)(A) is met (diversity of citizenship met in class action matters where "any member of a class of plaintiffs is a citizen of a State different from any defendant").

20. Furthermore, because Plaintiff's requested relief includes relief that will benefit a broad array of class plaintiffs, including and specifically, non-New Jersey citizens, those individuals are real-parties-in-interest, and thus are part of the class. *See e.g. Schwartz v. SCI Funeral Services of Florida, Inc.*, 931 F.Supp.2d 1191, 1198 (S.D. Fl. 2013), *aff'd*, 554 F. App'x. 823 (11th Cir. 2014). For example, the requested relief includes:

- an order for injunctive relief ". . . enjoining Defendant from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair, and deceptive business acts and practices complained of herein; (3) requiring Defendant to undertake an informational campaign ***to inform members of the general public*** as to the wrongfulness of Defendant's practices; and (4) requiring ***Defendant to pay Plaintiff and all members of the Class the amounts paid*** for the Bedtime Products . . ." Compl. at Prayer for Relief (emphasis added).
- an order for "[r]estitution and disgorgement of all amounts obtained by Defendant as a result of its misconduct, together with interest thereon from the date of payment, **to**

the victims of such violations." Compl. at Prayer for Relief (emphasis added).

Such non-New Jersey real-parties-in-interest are citizens of a state different from JJC and further support the diversity necessary for removal.

C. The Amount in Controversy Exceeds Five Million Dollars

21. The amount in controversy requirement of 28 U.S.C. § 1332(d)(2) is met because this action presents a dispute in which the matter in controversy exceeds the sum or value of $5,000,000.00 exclusive of interest and costs. 28 U.S.C. § 1332(d)(2).

22. "In removal cases, determining the amount in controversy begins with a reading of the complaint filed in the state court." *Samuel-Bassett v. KIA Motors America, Inc.*, 357 F.3d 392, 398 (3rd Cir. 2004). Because Plaintiff has not provided an exact sum in the Complaint, the Court must conduct an independent appraisal of the amount in controversy, and in so doing, may rely on facts alleged in the Notice of Removal and those in the Complaint. *See Federico v. Home Depot,* 507 F.3d 188, 197 (3rd Cir. 2007); *Russ v. Unum Life Ins. Co.*, 442 F.Supp.2d 193, 197 (D.N.J. 2006).

23. In considering the amount in controversy under CAFA, the claims of Plaintiff and the putative class members are aggregated to determine if the amount in controversy exceeds the jurisdictional threshold of $5,000,000.00, *See* 28 U.S.C. § 1332(d)(6).

24. Nowhere in the Complaint does Plaintiff assert that the amount in controversy is less than the $5,000,000 jurisdiction threshold under CAFA.

25. Plaintiff asserts that JJC's marketing practices for its Bedtime Products were "false and misleading;" that through its "massive marketing campaign" throughout the United States—including on television, magazines, the internet and product labels—JJC conveyed the message that "the Bedtime Products are clinically provide to help babies sleep better." Compl. at ¶¶ 2 & 5. Plaintiff alleges that the message is not true. *Id.* She alleges that JJC's actions "were

and are intended to induce" customers, "including Plaintiff and the members of the Class, into purchasing the more expensive Bedtime Products. . . ." *Id.* at ¶ 5.

26. Assuming all of the allegations of the Complaint to be true, and disregarding each and every defense of JJC, the amount in controversy is satisfied. As alleged, this action spans from at least 2000, when JJC launched its Bedtime Products. Compl. at ¶ 14. The Complaint specifies that "[s]ince the introduction of the Bedtime Products, Defendant's nationwide advertising campaign has been extensive" and lists the kinds of marketing done—on the product's labels, as well as on television, magazines, and the internet. *Id.* at ¶ 2. Further, the Complaint alleges that JJC used its websites "prior to 2013" to provide information and "various 'studies'" to "support its misleading claims." *Id.* at ¶ 20.

27. There are millions of dollars in sales of Bedtime Products within New Jersey in a single year, which are generated by purchases from Plaintiff and the class plaintiffs. Given the lengthy span of the relevant time frame alleged in the Complaint—from the time JJC launched its Bedtime Product to the time of filing (2000-2015)—Plaintiff's prayer for relief for restitution and disgorgement of all amounts obtained by JJC, alone, satisfies the amount in controversy. This does not even factor in any amounts for compensatory damages or other damages allegedly sustained by Plaintiff or the class plaintiffs. Indeed, even if the relevant time period was within the past two years, given the annual sales in millions of dollars plus the remaining sources of relief Plaintiff seeks, the amount in controversy of $5,000,000.00 is met.

B. Plaintiff Fails to Establish That Any § 1332(d) Exception Applies

28. This action may not be remanded under 28 U.S.C. § 1332(d)(3) because among other things, Plaintiff has not shown that more than two-thirds of the members of the proposed class are New Jersey citizens. 28 U.S.C. § 1332(d)(3).

29. Similarly, the action may not be remanded under either the "home state

exception" of 28 U.S.C. § 1332(d)(4)(B) or the "local controversy exception" of 28 U.S.C. § 1332(d)(4)(A), because among other things, Plaintiff has not shown that more than two-thirds of the members of the proposed class are New Jersey citizens. 28 U.S.C. § 1332(d)(4)(B) and (d)(4)(A)(i)(I); *see also Dicuio v. Brother Int'l Corp.*, 2011 WL 5557528 (D. N.J. 2011). Indeed, under both the home state and local controversy exceptions to CAFA, the plaintiff (party seeking remand) bears the burden of proof demonstrating citizenship. *Dicuio*, 2011 WL 5557528 at *2 (citing among other cases, *Kaufman v. Allstate N.J. Ins. Co.*, 561 F.3d 144, 153 (3rd Cir. 2009)).

30. Nowhere does the Complaint set forth facts supporting these exceptions, and particularly, New Jersey citizenship of the proposed class members.

31. Rather, the Complaint and its allegations reflect that the members of the proposed class are made up of primarily non-New Jersey citizens. The Complaint's critical allegations concern the launch of the Bedtime Products, JJC's advertising of them, and the resulting purchases from 2000 to present. Given the historical citizenship flow from New Jersey to other states, a huge segment of the proposed class necessarily consists of former New Jersey citizens from 2000 to the date of the Complaint's filing, *e.g.*, those who purchased the products in New Jersey but subsequently moved to New York or Pennsylvania.

32. Furthermore, the local controversy exception in 28 U.S.C. § 1332(d)(4)(A)(ii) only applies when "during the 3-year period preceding the filing of that class action, no other class action has been filed asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons." 28 U.S.C. § 1332(d)(4)(A)(ii). *See, e.g., In re: Indianapolis Life Ins. Co. I.R.S. § 412(i) Plans Life Ins. Marketing Litig.*, MDL-1983 (N.D. Tex.). Within the past three years, JJC has been sued in similar class actions containing nearly identical factual allegations by other persons—in both this district and other parts of the country—who are represented by the same counsel.

33. Indeed, JJC was sued in a ***nearly identical class action concerning the exact consumer statute set forth in the State Action with nearly the same factual allegations*** in the United States District Court District of New Jersey. That action, *Lieberson, et al. v. Johnson and Johnson Consumer Companies, Inc.*, Case No. 3:13-cv-00610-FLW-DEA, was filed on January 31, 2013, and ultimately dismissed with prejudice on June 20, 2014 by Plaintiffs after the Court of Appeal for the Third Circuit ruled in *Carrera v. Bayer Corp.*, 727 F.3d 300 (3rd Cir. 2013) regarding the limitations on class certification in actions such as this Action.

34. JJC has also been sued in ***nearly identical class actions*** in other parts of the country ***on July 2, 2015 as well, represented by the same counsel in each of these actions***. Each allege the same basic facts, and are premised on consumer remedy statutes. They are as follows:

- *Jinette Hidalgo, on behalf of herself and all others similarly situated v. Johnson & Johnson Consumer Companies, Inc.*, United States District Court Southern District of New York, Case No. 1:15-cv-05119, filed on July 2, 2015.
- *Stephanie Leiner, Individually and On Behalf of Herself and All Others Similarly Situated v. Johnson & Johnson Consumer Companies, Inc.*, United States District Court Southern District of Illinois, Case No. 1:15-cv-05876, filed on July 2, 2015.
- *Jacqueline Real, Individually and On Behalf of Herself and All Others Similarly Situated v. Johnson & Johnson Consumer Companies, Inc.*, United States District Court Central District of California, Case No. 2:15-cv-05025-SVW-JEM, filed on July 2, 2015.

35. Finally, 28 U.S.C. § 1332(d)(5) cannot apply because the primary (and only defendant), JJC, is not a State, State official, or other governmental entity against whom the district court may be foreclosed from ordering relief.

IV. **THIS IS THE PROPER COURT UPON REMOVAL**

36. The United States District Court for New Jersey is the appropriate court for filing this Notice of Removal because the State Action is pending in the Superior Court of New Jersey, Camden County, Law Division, which is located within this federal judicial district and division. *See* 28 U.S.C. § 1446(a).

WHEREFORE, Johnson & Johnson Consumer Inc. (improperly named as Defendant Johnson & Johnson Consumer Companies, Inc.) hereby gives notice of the removal to this Court of the civil action pending in the Superior Court of New Jersey, Camden County, Law Division under the caption *Jillian Gallagher v. Johnson & Johnson Consumer Companies, Inc.*, Docket No. L-2557-15 (the "State Action").

WHEREFORE, Johnson & Johnson Consumer Inc. (improperly named as Defendant Johnson & Johnson Consumer Companies, Inc.) prays that this cause proceed in this Court as an action properly removed thereto.

This 12th day of August, 2015.

Respectfully submitted,

McCARTER & ENGLISH, LLP

Attorneys for Defendant
Johnson & Johnson Consumer Inc. (improperly named as Defendant Johnson & Johnson Consumer Companies, Inc.)

By:
David R. Kott
A Member of the Firm

EXHIBIT A

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Attorneys for Plaintiffs

JILLIAN GALLAGHER, On Behalf of Herself and All Others Similarly Situated, *Plaintiff* vs. JOHNSON & JOHNSON CONSUMER COMPANIES, INC. *Defendant.*	**SUPERIOR COURT OF NEW JERSEY** **LAW DIVISION** **CAMDEN COUNTY** **DOCKET NO: L-2557-15** ***Civil Action*** **SUMMONS**

From The State of New Jersey
To The Defendant(s) Named Above:

JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

The Plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the [Clerk of the Superior Court] Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of $175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the Court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If Judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the County where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal *assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.*

Michelle M. Smith
MICHELLE M. SMITH, Acting Clerk
Superior Court of New Jersey

Dated: July 28, 2015

Name of Defendant(s) to be served: JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

Address of Defendant(s) to be served: One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933

Trimble & Armano
Attorneys at Law
900 Route 168
Suites B1-B2
Turnersville, NJ 08012

DEPUTY CLERKS / LAWYER REFERRAL / LEGAL SERVICES

ATLANTIC COUNTY:
Deputy Clerk, Superior Court
Civil Division, Direct Filing
1201 Bacharach Boulevard
Atlantic City, NJ 08401
LAWYER REFERRAL: (609) 345-3444
LEGAL SERVICES: (609) 348-4200

CAMDEN COUNTY:
Deputy Clerk, Superior Court
Civil Processing Office
1st Floor, Hall of Justice, Hall of Justice
Camden, NJ 08103
LAWYER REFERRAL: (856) 964-4520
LEGAL SERVICES: (800) 496-4570

ESSEX COUNTY:
Deputy Clerk, Superior Court
237 Hall of Records
465 Martin L. King, Jr. Boulevard
Bridgeton, NJ 08302
LAWYER REFERRAL: (973) 662-6207
LEGAL SERVICES: (973) 624-4500

HUNTERDON COUNTY:
Deputy Clerk, Superior Court
Civil Division, 65 Park Avenue
Flemington, NJ 08862
LAWYER REFERRAL: (908) 735-2611
LEGAL SERVICES: (908) 782-7979

MONMOUTH COUNTY:
Deputy Clerk, Superior Court
71 Monument Park, P.O. Box 1262
Court House, East Wing
Freehold, NJ 07728-1262
LAWYER REFERRAL: (732) 431-5544
LEGAL SERVICES: (732) 866-0020

PASSAIC COUNTY:
Deputy Clerk, Superior Court
Civil Div., Courthouse, 77 Hamilton Street
Paterson, NJ 07505
LAWYER REFERRAL: (973) 278-9223
LEGAL SERVICES: (973) 345-7171

SUSSEX COUNTY:
Deputy Clerk, Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL: (973) 267-5882
LEGAL SERVICES: (973) 383-7400

BERGEN COUNTY:
Deputy Clerk, Superior Court
Case Processing Section
Justice Center, Room 119, 10 Main St.
Hackensack, NJ 07061-7698
LAWYER REFERRAL: (201) 488-0044
LEGAL SERVICES: (201) 487-2166

CAPE MAY COUNTY:
Deputy Clerk, Superior Court
Central Processing Office
9 North Main Street, Box DN-209
Cape May Court House, NJ 08210
LAWYER REFERRAL: (609) 463-0313
LEGAL SERVICES: (609) 465-3001

GLOUCESTER COUNTY:
Deputy Clerk, Superior Court
Civil Case Management Office
Attn: Intake, 1st Floor Courthouse
1 North Broad Street
Woodbury, NJ 08096
LAWYER REFERRAL: (856) 848-4589
LEGAL SERVICES: (800) 496-4570

MERCER COUNTY:
Deputy Clerk, Superior Court
Local Filing Office, Courthouse
175 South Broad Street, P.O. Box 8068
Trenton, NJ 08650
LAWYER REFERRAL: (609) 890-6200
LEGAL SERVICES: (609) 695-6249

MORRIS COUNTY:
Deputy Clerk, Superior Court
Civil Div., 30 Schuyler Pl., P.O. Box 910
Morristown, NJ 07960-0910
LAWYER REFERRAL: (973) 267-5882
LEGAL SERVICES: (973) 285-6911

SALEM COUNTY:
Deputy Clerk, Superior Court
92 Market Street, P.O. Box 18
Salem, NJ 08079
LAWYER REFERRAL: (855) 678-8363
LEGAL SERVICES: (800) 496-4570

UNION COUNTY:
Deputy Clerk, Superior Court
1st Fl, Courthouse, 2 Broad Street
Elizabeth, NJ 07207-6073
LAWYER REFERRAL: (908) 353-4715
LEGAL SERVICES: (908) 354-4340

BURLINGTON COUNTY:
Deputy Clerk, Superior Court
Central Processing Office
Attn: Judicial Intake, 1st Floor
Court Facility, 49 Rancocas Rd.
Mt. Holly, NJ 08060
LAWYER REFERRAL: (609) 261-4862
LEGAL SERVICES: (800) 496-4570

CUMBERLAND COUNTY:
Deputy Clerk, Superior Court
Civil Case Management Office
Broad & Fayette Streets, P.O. Box 615
Newark, NJ 07102
LAWYER REFERRAL: (856) 692-6207
LEGAL SERVICES: (800) 496-4570

HUDSON COUNTY:
Deputy Clerk, Superior Court
Civil Records Department
Brennan Courthouse, 1st Floor
583 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL: (201) 798-2727
LEGAL SERVICES: (201) 792-6363

MIDDLESEX COUNTY:
Deputy Clerk, Superior Court
Administration Building, 3rd Floor
1 Kennedy Square, P.O. Box 2633
New Brunswick, NJ 08903-2633
LAWYER REFERRAL: (732) 828-0083
LEGAL SERVICES: (732) 249-7600

OCEAN COUNTY:
Deputy Clerk, Superior Court
Court House, Rm 119, 118 Wash. St.
Toms River, NJ 08754
LAWYER REFERRAL: (732) 240-3666
LEGAL SERVICES: (732) 341-2727

SOMERSET COUNTY:
Deputy Clerk, Superior Court
Civil Division Office, 3rd Floor
New Courthouse, P.O. Box 3000
Somerville, NJ 08876
LAWYER REFERRAL: (908) 685-2323
LEGAL SERVICES: (908) 231-0840

WARREN COUNTY:
Deputy Clerk, Superior Court
Civil Division, Courthouse
Belvidere, NJ 07823-1500
LAWYER REFERRAL: (908) 267-5882
LEGAL SERVICES: (908) 475-2010

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(Additional Counsel Listed on Signature Page)

JUL - 2 2015

JILLIAN GALLAGHER, On Behalf of Herself and All Others Similarly Situated, Plaintiff, vs. JOHNSON & JOHNSON CONSUMER COMPANIES, INC. Defendant.	SUPERIOR COURT OF NEW JERSEY CAMDEN COUNTY LAW DIVISION DOCKET NO.: L-2557-15 CIVIL ACTION

CLASS ACTION COMPLAINT

Plaintiff, Jillian Gallagher ("Plaintiff" or "Gallagher"), individually and on behalf of all others similarly situated, by and through her attorneys, alleges on personal knowledge as to all facts related to herself and upon information and belief (based on the investigation of counsel) as to all other matters, as follows:

PRELIMINARY STATEMENT

1. Defendant, Johnson & Johnson Consumer Companies, Inc. ("J&J" or "Defendant"), manufactures, markets, and sells Johnson & Johnson Bedtime Products, including

PRELIMINARY STATEMENT

1. Defendant, Johnson & Johnson Consumer Companies, Inc. ("J&J" or "Defendant"), manufactures, markets, and sells Johnson & Johnson Bedtime Products, including JOHNSON'S® BEDTIME® Bath ("Bedtime Bath") and JOHNSON'S® BEDTIME® Lotion ("Bedtime Lotion") (collectively, "Bedtime Product(s)" or "Product(s)"), which purport to help a baby sleep better. Specifically, on the front of each bottle, there is a prominent logo that proclaims: "CLINICALLY PROVEN, HELP BABY SLEEP BETTER."[1] J&J also markets and advertises, on the back of the bottles, that it has created a "clinically proven" nighttime routine of a warm bath, gentle massage (with the Products), and quiet activities that will help babies sleep better (e.g., reading, cuddling, and singing lullabies) (Exhibits 1, 2).

2. Since the introduction of the Bedtime Products, Defendant's nationwide advertising campaign for the Bedtime Products has been extensive, and Defendant has spent a significant amount of money to convey its deceptive messages to consumers throughout the United States and other parts of the world. Defendant has utilized a wide array of media to convey its deceptive claims about the Bedtime Products over time, including in television, magazines, the Internet, and on the Product labels. Through this massive marketing campaign, Defendant has worked to convey a singular message: the Bedtime Products are clinically proven to help babies sleep better. Each person who has purchased the Bedtime Products has been exposed to the advertising message and, in particular, the misleading labels, and purchased the Products as a direct result of that message.

3. Defendant's claims are deceptive and misleading, and have been designed to induce consumers to buy the Bedtime Products. Defendant knew or should have known, at the

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[1] A true and correct copy of the current product label for the Bedtime Lotion is attached hereto as Exhibit 1, and a true and correct copy of the current product label for the Bedtime Bath is attached hereto as Exhibit 2.

time it began selling the Products, that there are no studies showing that the Bedtime Products are clinically proven to provide any results, and Defendant has no basis to make the claims about its Products.

4. As a result of its deceptive conduct, J&J charges a premium of at least $1.00 for Bedtime Products over its other baby washes and lotions, which premium Plaintiff and other consumers paid (and continue to pay) with the specific understanding, based upon Defendant's false and misleading labeling, advertising, and pervasive representations, that using the Bedtime Products, either alone or in connection with the "clinically proven" nighttime routine, will help babies sleep better. As a result of seeing these false and misleading representations, Plaintiff and consumers bought the Bedtime Products, paid more for the Bedtime Products than they otherwise would have paid absent the wrongful conduct, and have been damaged as a result of the wrongful conduct.

5. This class action seeks to provide redress to consumers in New Jersey who have been harmed by the false and misleading marketing practices Defendant has engaged in with respect to the Bedtime Products. Defendant's conduct has included the systematic and continuing practice of disseminating false and misleading information throughout the United States via pervasive multi-media advertising and the Product packaging. These actions were and are intended to induce unsuspecting consumers, including Plaintiff and the members of the Class, into purchasing the more expensive Bedtime Products, which Products are not clinically proven at all, much less proven to have the benefits that are represented. Those very supposed benefits serve as the basis for consumers' decisions to purchase the Bedtime Products, instead of the less expensive J&J baby washes and lotions that have long been sold on the market and do not purport to provide such "clinically proven" benefits.

6. Plaintiff brings this action to obtain redress for those who have purchased the Bedtime Products. Plaintiff alleges violations of the New Jersey Consumer Fraud Act, N.J.S.A. § 56:8-1, *et seq.* ("CFA").

7. Though this action, Plaintiff seeks injunctive relief, actual damages, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs, and all other relief available to the Class as a result of Defendant's unlawful conduct.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction to remedy Defendant's violations of state consumer protection laws by its practices throughout New Jersey.

9. Venue is proper in Camden County because Plaintiff purchased the Product in this county, and Defendant conducts business throughout this county, and a substantial part of the events or omissions giving rise to Plaintiff's claims took place within and emanated from this county.

10. This Court has personal jurisdiction over Defendant because Defendant is a citizen of this State and is authorized to do business, and currently does business, in this State.

THE PARTIES

11. Plaintiff is, and at all times relevant to this action has been, a resident and citizen of Hammonton, New Jersey.

12. J&J is a New Jersey corporation and, at all times relevant to this action, has maintained its principal place of business in Skillman, New Jersey. J&J, thus, is a citizen of New Jersey. J&J sold the Bedtime Products through retail stores, the Internet, and through television and other advertisements, all of which led consumers to purchase the Bedtime Products throughout the United States, including in New Jersey. J&J knew, or should have known, that the representations made regarding the Bedtime Products were false and misleading

at the time that it began distributing the Bedtime Products in New Jersey and the United States market.

STATEMENT OF FACTS

Facts Common to Plaintiff and the Class

13. This class action is brought against J&J for the benefit and protection of all purchasers of the Bedtime Products in New Jersey.

14. J&J launched its Bedtime Products in 2000. As a general matter, many babies and toddlers have difficulty falling asleep and sleeping through the night. Indeed, J&J's website indicates that "20-30 percent of babies experience regular sleep problems, including difficulty falling asleep and sleeping through the night." Most parents, 76 percent, report a desire to change some aspect of their baby's sleep. http://www.johnsonsbaby.com/difference/baby-science#sleep.

15. Indeed, a majority of families report that sleep is the number one challenge they face. *See* www.babycenter.com > Expert Advice, Americas Sleep Crisis, July 2012, http://www.babycenter.com/sleepstudy (last visited July 1, 2015).

16. When Defendant introduced its Products, Defendant knew that its target audience would be eager to accept claims that the Products could help babies sleep better. Defendant used this opportunity to lure customers into paying a premium price for the Product by making prominent representations in the marketing materials for the Products, and especially the front labels for the Products, that simply using the Products would help babies fall asleep more easily and sleep better.

17. J&J has had baby washes and lotions on the market for years. J&J is not in the business of selling routines – it is in the business of selling its Products. In order to sell more products and attempt to capitalize on this perceived market to improve baby's sleep, J&J

introduced its Bedtime Products. Indeed, J&J launched these Products and claimed it had expanded its **product line** to introduce new and innovative **products** to help a baby sleep better.

18. The Bedtime Products are known to customers only by the representations made about the Products by Defendant. If, as is the case here, J&J sold other baby washes and lotions for infants and young children, then customers would have no reason to pay a premium to buy the new products, i.e., the Bedtime Products, unless and until they are exposed to Defendant's labeling and other pervasive messages about the purported properties and benefits of the Products. The label itself, as well as the marketing material disseminated by Defendant, both make the false and misleading representations about the Product's benefits and properties. In other words, given the existence of similar bath and skin lotion products, long sold by J&J, for washing and moisturizing a baby's skin, consumers would purchase the Bedtime Products if, **and only if**, they were exposed to Defendant's pervasive labeling and advertising campaign that these **new** Products did something that its others did not do – here, it is that the Bedtime Products were (and are) ***clinically proven*** to help baby sleep better.

19. For example, the Products themselves are touted by Defendant. In its Infant Sleep Guide, which cites to its own "baby care experts" at J&J, Defendant stated that:

> Our new products, enriched with NATURALCALM™ essences, a unique blend of gentle ingredients and soothing aromas, can help your baby sleep better when used as part of a regular nightly routine. **JOHNSON'S® is the first and only brand that's clinically proven to help babies fall asleep easier and sleep through the night better.** To learn more about our products, visit JohnsonsBaby.com/sleep.

(emphasis added).[2]

20. Prior to January 2013, Defendant's websites provided, *inter alia*, Baby Sleep Guides, New Parent's Guide to Better Sleep, and various "studies" to support its misleading claims. While the language on some of these materials has changed slightly between January 2013 and the present, the wording on the Product labels has remained constant to this day: that the Bedtime Products are clinically proven to help babies sleep better.

21. The labeling and marketing communicates a persistent and material message and makes a common and pervasive representation that the Products are clinically proven to help babies sleep better. These core representations alleged to be false and misleading, that the Products themselves are clinically proven to help babies sleep better, are also all contained on the Product label itself for every purchaser to read.

22. On the front of the bottle of the Products, there is a prominent logo that proclaims: "CLINICALLY PROVEN, HELP BABY SLEEP BETTER." (Exhibits 1, 2.)[3]

23. J&J claims that its Bedtime Bath and Bedtime Lotion are clinically proven to help babies and toddlers fall sleep better, and are now labeled as able to help babies who have "trouble sleeping" achieve a "better night's sleep." (Exhibits 1-2.)

24. Therefore, Defendant expressly and impliedly represented that the Products were clinically proven to help baby sleep better.

25. As Defendant knows, however, contrary to the clear labeling and advertising, the Bedtime Products are not themselves clinically proven.

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[2] A true and correct copy of the Infant Sleep Guide is attached hereto as Exhibit 3.
[3] Although there have been minor variations of the label, since 2010, these same exact words have remained constant.

26. J&J further states, on the back label of the Bedtime Product bottles, that it has also created a "clinically proven" nighttime routine of a warm bath (with the Products), gentle massage (with the Products), and quiet activities (e.g., reading, cuddling, and singing lullabies):

> Treat your baby to a bath with **JOHNSON'S® BEDTIME BATH®**, a gentle massage **with JOHNSON'S® BEDTIME LOTION®**, a few minutes of quiet time, and your baby will drift off to a better night's sleep.

(See Exhibits 1, 2.) (emphasis added). Thus, in addition to the false representations that the Products themselves are clinically proven, Defendant also has carefully created the misleading and deceptive impression that consumers can use the clinically proven Product and the clinically proven "nighttime routine" to help baby sleep better.

27. Throughout the relevant time period, Defendant has marketed the Products using uniformly deceptive advertising and packaging. Likewise, the labeling and marketing for the Bedtime Lotion and Bedtime Bath contain substantially the same message. A typical label promises that:

a. the Products are "CLINICALLY PROVEN, HELP BABY SLEEP BETTER" (Exhibits 1, 2);

b. the Products help your baby fall asleep easier and sleep through the night better (Exhibits 1, 2); and

c. the nighttime routine is clinically proven to help babies and toddlers sleep better (Exhibits 1, 2).

28. At no time, however, either in its labels, advertising, or so-called clinical studies, does J&J attempt to sell the routine, or to describe the use of the routine or its studies, without also including the Bedtime Products in the description of the routine and in the description of the

studies. Nor would one expect it to, since Defendant does not sell routines – it sells the Bedtime Products. *See* http://www.johnsonsbaby.com/difference/baby-science#sleep.

29. Not surprisingly, and consistent with its goal of selling **products** (not routines), Defendant has recently added a new **product** to its line - the JOHNSON'S® Baby BEDTIME® Washcloths. The front of the package proclaims that the washcloths are "clinically proven help baby sleep better."[4] The label also states that the customer should "Try our other JOHNSON'S® Baby BEDTIME® **products** to help baby sleep better." (Exhibit 4) (emphasis added).

30. Defendant has also repeated its unfair and/or deceptive representations about its Products on its websites: www.johnsonsbaby.com, www.jnj.com, and www.johnsonsprofessional.com. The content of the websites contains materially the same message about the Products that Defendant has put on the labels of the Bedtime Products and disseminated since its launch.

31. Defendant's website advertising also states that the Products are formulated with NATURALCALM™, a "special blend of calming aromas."[5] *See also* https://www.johnsonsbaby.com/babywash/johnsons-bedtime-lotion (NATURALCALM™ is a special blend of gentle and calming aromas).

32. At some point since January 2013, Defendant changed this language from Defendant's prior representation, that it was a "unique blend of patent pending essences that has been tested and proven to have relaxing properties." In fact, since the time of the introduction of

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[4] A true and correct copy of the product box and label for the washcloths is attached hereto as Exhibit 4.
[5] A true and correct copy of the website page from 2014 is attached hereto as Exhibit 5.

the Bedtime Products, J&J has claimed that NATURALCALM™ is a "patent-pending blend of gentle and soothing aromas" proven to promote calming and a relaxed state.[6]

33. However, Defendant is well aware that the patent for NATURALCALM™ was never tested with babies or children.

34. Defendant also states that the Bedtime Lotion is "clinically shown to last all night long." (Exhibit 5).

35. Since the launch of the Products and to the present, J&J has consistently and uniformly stated on its labeling and in its other advertisements that the Products are clinically proven to help babies sleep better. J&J intended the statement to appear scientific and give the claims a special significance, when in reality, J&J knows that the Products themselves are not clinically proven.

36. J&J did not test the "routine" with products other than the Bedtime Products, such as J&J's long-sold ordinary bath products, another company's products, or with no products at all.

37. In the United Kingdom, a challenge to the advertising of the very claims at issue here found that Defendant's advertising was "likely to mislead" as Defendant failed to show that it was the use of the Products in the suggested routine that was proven to help babies sleep better and because the advertising did not make clear that the routine had only been tested on babies over seven months old. The Advertising Standards Authority Council "told them to ensure that any similar advertising did not suggest that Johnson's products, as part of the bedtime routine, had been proven to help babies sleep better and to make clear that the routine had been proven to

[6] A true and correct copy of the product label for Bedtime Lotion is attached hereto as Exhibit 6, and a true and correct copy of the product label for the Bedtime Bath is attached hereto as Exhibit 7. Both were in or around January, 2013, but were changed sometime between that date and the present.

work only for babies over seven months old." *See* ASA Adjudication on Johnson & Johnson Ltd, Apr. 30, 2008, formerly available at http://www.asa.org.uk/ASA-action/Adjudications/2008/4/Johnson- and-Johnson-Ltd/ TF_ADJ_44345.aspx.[7]

38. All of these representations made by J&J on the Product labels are deceptive, false, and misleading. Moreover, as a result of these representations, Defendant was able to sell, to Plaintiff and other consumers, the Bedtime Products at a premium over its plain baby lotion and wash products (*e.g.*, JOHNSON'S® Baby Lotion, JOHNSON'S® Baby Wash, or other comparable name brand products), which cost at least twenty-five percent (25%) less than the Bedtime Products. In other words, Plaintiff purchased the Products at a premium price over other baby bath and lotion products.

39. Had Plaintiff and other members of the proposed Class been aware of the truth, they would not have purchased the more expensive Bedtime Products or would have paid substantially less for them.

Plaintiff's Experiences

40. Plaintiff's claims are based on the Products' labels. On or about March 18, 2015, Plaintiff, while shopping for baby wash, viewed the claims on the label of the bottles of the Bedtime Products at a CVS store in Berlin, New Jersey. In particular, Plaintiff recalls reading Defendant's claims on the labels that the Products were better than the other J&J products because these Products (and only these Products) were "clinically proven" to help babies sleep better.

41. Plaintiff also noticed that the labels of other baby wash and lotion products, including J&J's long-sold regular products and other brand name products, did not contain claims that the products were "clinically proven" to help babies sleep better. As a result, the

[7] A true and correct copy of the decision is attached hereto as Exhibit 8.

labels on the Products convinced Plaintiff to purchase the Bedtime Products, instead of any other similar baby wash and lotion products, to help her baby sleep better.

42. Defendant's claims that the Products would help baby sleep better also induced Plaintiff, **in addition** to her purchase of the Bedtime Bath Products, to also purchase J&J's long-sold regular products, **for use in the daytime.**

43. In reliance on the label's claims that the Bedtime Products were clinically proven to help her baby sleep better, Plaintiff purchased a bottle of Bedtime Bath for approximately $7.29 per 15 oz. bottle, at the CVS located on the White Horse Pike in Berlin, NJ.

44. Plaintiff used the Bedtime Bath, in conjunction with the Bedtime Lotion she already had in her home, in accordance with J&J's 3-step routine.

45. The labeling of the Product bottles, and the representations therein, were made by Defendant. Reasonably relying on the claims made on the labeling of the bottles, Plaintiff purchased the Products. Plaintiff reasonably expected that the Products would work as advertised and sold and, thus, used the Bedtime Products as directed.

46. After using the Bedtime Products as part of the 3-step nightly routine for a period of time with her child, Plaintiff discontinued use, as she determined that the use of the Bedtime Products (included in the "routine") did not help her baby sleep better.

47. Plaintiff suffered actual damages and loss, in the amount of the total price of the Bedtime Products purchased and/or the price premium of the Product, as a result of the improper actions described herein.

CLASS ACTION ALLEGATIONS

48. Plaintiff brings this action as a class action, pursuant to 4:32 of the New Jersey Rules of Civil Procedure, seeking injunctive and other relief on behalf of herself and all other similarly situated members of the Class, defined as follows:

> All New Jersey citizens who purchased the Bedtime Products within New Jersey, not for resale or assignment.

49. Specifically excluded from the Class are: (a) Defendant, its officers, directors, agents, trustees, corporations, trusts, representatives, employees, principals, servants, partners, joint ventures, or entities controlled by Defendant, and their heirs, successors, assigns, or other persons or entities related to or affiliated with Defendant and/or their officers and/or directors, or any of them; (b) any person who has suffered personal injury or is alleged to have suffered personal injury as a result of using the Bedtime Products; and (c) the Judge to whom this case is assigned.

50. **Numerosity/Impracticability of Joinder.** The members of the Class are so numerous that joinder of all members is impracticable. The proposed Class includes thousands of members. The precise number of Class members can be ascertained by reviewing documents in Defendant's possession, custody, and control, or otherwise obtained through reasonable means.

51. **Typicality.** The representative Plaintiff's claims are typical of the claims of the members of the Class she seeks to represent. Plaintiff and all members of the Class purchased the Products at a premium price and have sustained damages arising out of the same wrongful course of conduct. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the Class members and are based on the same legal theories.

52. **Commonality and Predominance.** Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual Class members. These common legal and factual questions include, but are not limited to, the following:

a. Whether Defendant engaged in a pattern of fraudulent, deceptive, and misleading conduct targeting the public through the marketing, advertising, promotion, labeling, and/or sale of the Bedtime Products;

b. Whether Defendant made material misrepresentations of fact or omitted to state material facts to Plaintiff and the Class regarding the marketing, promotion, advertising, and sale of the Bedtime Products, which material misrepresentations or omissions operated as a fraud and deceit upon Plaintiff and the Class;

c. Whether Defendant's false and misleading statements of fact and concealment of material facts regarding the Bedtime Products were intended to deceive the public;

d. Whether, as a result of Defendant's misconduct, Plaintiff and the Class are entitled to equitable and other relief, and, if so, the nature of such relief;

e. Whether Plaintiff and the members of the Class have sustained loss and damages as a result of Defendant's acts and omissions, and the proper measure thereof; and

f. Whether such a failure violates statutory and common law prohibitions against such conduct, as detailed more fully below.

53. **Adequacy**. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff has retained counsel highly experienced in complex consumer class action litigation and intends to prosecute this action vigorously. Plaintiff is a member of the Class and does not have interests antagonistic to, or in conflict with, the other members of the Class.

54. **Superiority.** A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since, among other things, individual litigation and/or joinder of all members of the Class is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Class are likely in the millions of dollars, the individual damages incurred by individual Class members as a result of Defendant's wrongful conduct alleged herein are too small to warrant the expense of individual litigation. The likelihood of individual Class members prosecuting their own separate claims is remote and, even if every Class member could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases. Individual members of the Class do not have a significant interest in individually controlling the prosecution of separate actions and individualized litigation would present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all of the parties and to the court system because of multiple trials of the same factual and legal issues. Plaintiff does not foresee any difficulty in the management of this litigation that would preclude its maintenance as a class action. In addition, Defendant has acted or refused to act on grounds generally applicable to the Class and, as such, final injunctive relief or corresponding declaratory relief with regard to the members of the Class as a whole is appropriate.

55. Adequate notice can be given to Class members directly using information maintained in Defendant's records, or through notice by publication.

FIRST CAUSE OF ACTION
Asserted on Behalf of the Class
(Violations of N.J.S.A. § 56:8-1, *et seq.*)

56. Plaintiff incorporates by reference each and every preceding paragraph as though fully set forth herein.

57. Plaintiff and the Class and Defendant are defined as "persons" within the meaning of the CFA.

58. Plaintiff and the Class are defined as "consumers" within the meaning of the CFA.

59. The Product is "merchandise" within the CFA.

60. At all relevant times material hereto, Defendant has conducted trade and commerce in New Jersey and elsewhere within the meaning of the CFA.

61. The CFA is, by its terms, a cumulative remedy, such that remedies under its provisions can be awarded in addition to those provided under separate statutory schemes.

62. Defendant has engaged in deceptive practices in the sale of the Bedtime Bath Products because Defendant knew that it had purposely marketed and sold the Bedtime Bath Products in a manner that made Plaintiff and reasonable consumers believe that the Bedtime Bath Products themselves were clinically proven to help babies sleep better and were also part of a "routine" that was clinically proven to help babies sleep better.

63. Defendant has engaged in deceptive practices in the sale of the Bedtime Bath Products because Defendant knew that the Product was not clinically proven and no clinical studies demonstrate that the Bedtime Bath Products are clinically proven to help, or will help babies sleep better.

64. Defendant has engaged in deceptive practices in the sale of the Bedtime Bath Products because Defendant knew that no clinical studies demonstrate that using the Bedtime Bath Products with the 3-step routine is any more effective at helping babies sleep better than using the 3-step routine without the Bedtime Bath Products.

65. Similarly, Defendant also failed to disclose material facts regarding the Bedtime Bath Products to Plaintiff and members of the Class -- namely, that no clinical studies

demonstrate that using the Bedtime Bath Products will help babies sleep better and that no clinical studies demonstrate that using the 3-step routine with Bedtime Bath Products is any more effective at helping babies sleep better than using the 3-step routine without the Bedtime Bath Products.

66. Defendant's unconscionable conduct described herein included its false representations and the omission and concealment of material facts concerning the Bedtime Bath Products and their lack of efficacy.

67. Defendant intended that Plaintiff and the other members of the Class rely on these acts of concealment and omissions, so that Plaintiff and other Class members would purchase the Bedtime Bath Products.

68. The false and misleading representations were intended to, and likely to, deceive a reasonable consumer.

69. The facts not disclosed would be material to the reasonable consumer, and are facts that a reasonable consumer would consider important in deciding whether to purchase the Products and how much to pay.

70. Defendant's representations and omissions were, and are, material to reasonable consumers, including Plaintiff, in connection with their respective decisions to purchase the Products.

71. Had Defendant not engaged in false and misleading advertising regarding the Bedtime Bath Products, Plaintiff and other members of the Class would not have purchased the Bedtime Bath Products.

72. Had Defendant disclosed all material information regarding the Bedtime Bath Products to Plaintiff and other members of the Class, they would not have purchased the Bedtime Bath Products.

73. The foregoing acts, omissions and practices directly, foreseeably and proximately caused Plaintiff and other members of the Class to suffer an ascertainable loss in the form of, *inter alia*, monies spent to purchase the Bedtime Bath Products at a premium price, and they are entitled to recover such damages, together with appropriate penalties, including, but not limited to, treble damages, attorneys' fees and costs of suit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and on behalf of the members of the Class defined herein, prays for judgment and relief as follows as appropriate for the above causes of action:

A. An order certifying this case as a class action and appointing Plaintiff and her counsel to represent the Class;

B. A temporary, preliminary, and/or permanent order for injunctive relief: (1) requiring Defendant to immediately cease its wrongful conduct as set forth above; (2) enjoining Defendant from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair, and deceptive business acts and practices complained of herein; (3) requiring Defendant to undertake an informational campaign to inform members of the general public as to the wrongfulness of Defendant's practices; and (4) requiring Defendant to pay Plaintiff and all members of the Class the amounts paid for the Bedtime Products;

C. Restitution and disgorgement of all amounts obtained by Defendant as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations;

D. All recoverable compensatory and other damages sustained by Plaintiff and the Class;

E. Actual and/or statutory damages for injuries suffered by Plaintiff and the Class and in the maximum amount permitted by applicable law;

F. Statutory pre-judgment and post-judgment interest on any amounts;

G. Payment of reasonable attorneys' fees and costs; and

H. Such other and further relief as the Court may deem necessary or appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of R. 4:25-4, the Court is advised that James C. Shah is hereby designated as trial counsel.

CERTIFICATE REGARDING OTHER PROCEEDINGS AND PARTIES

We certify in accordance with R. 4:5-1 that there are no other proceedings either pending or contemplated with respect to the matter in controversy in this action and no other parties who should be joined in this action.

Dated: July 2, 2015

TRIMBLE & ARMANO

By: ______________________________

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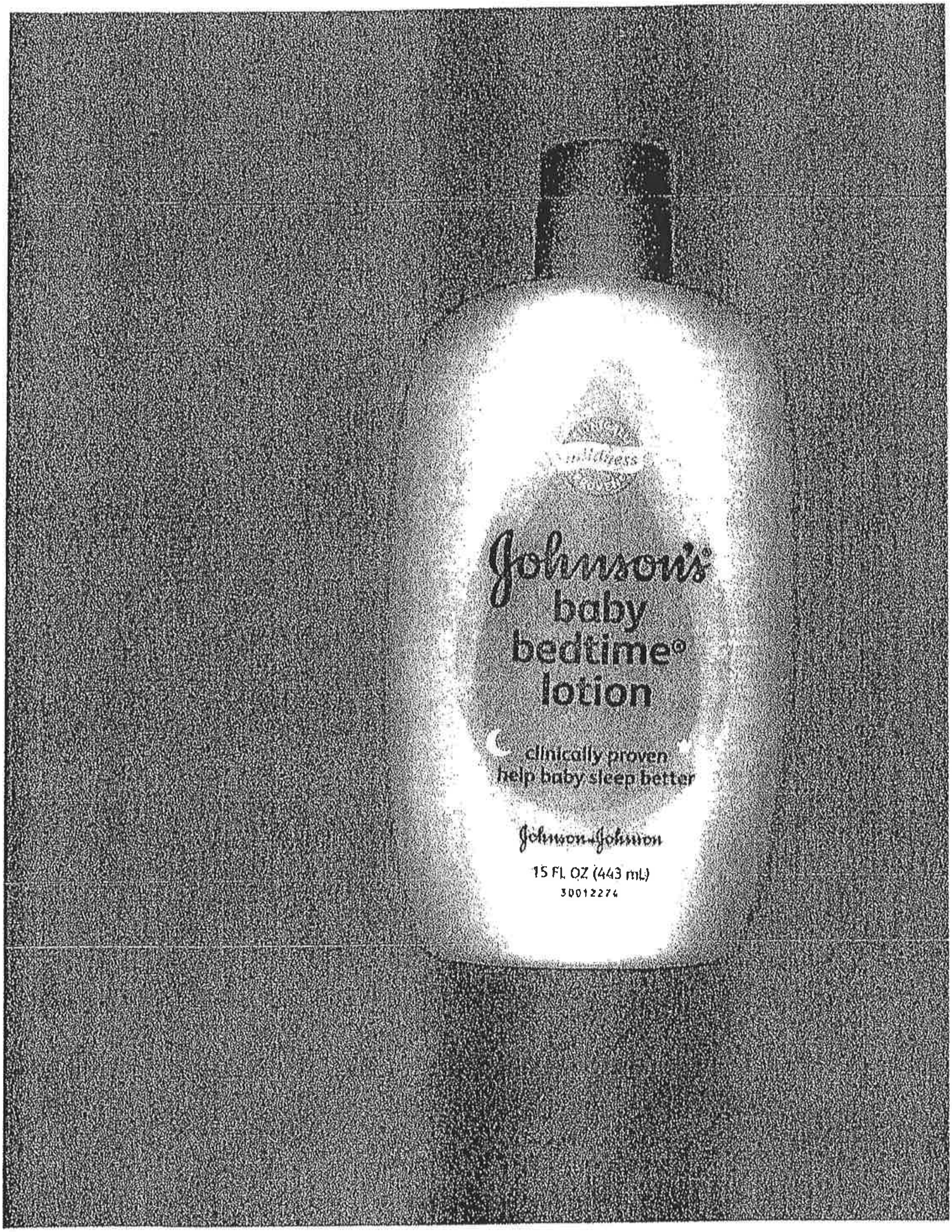
Exhibit 1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Johnson & Johnson
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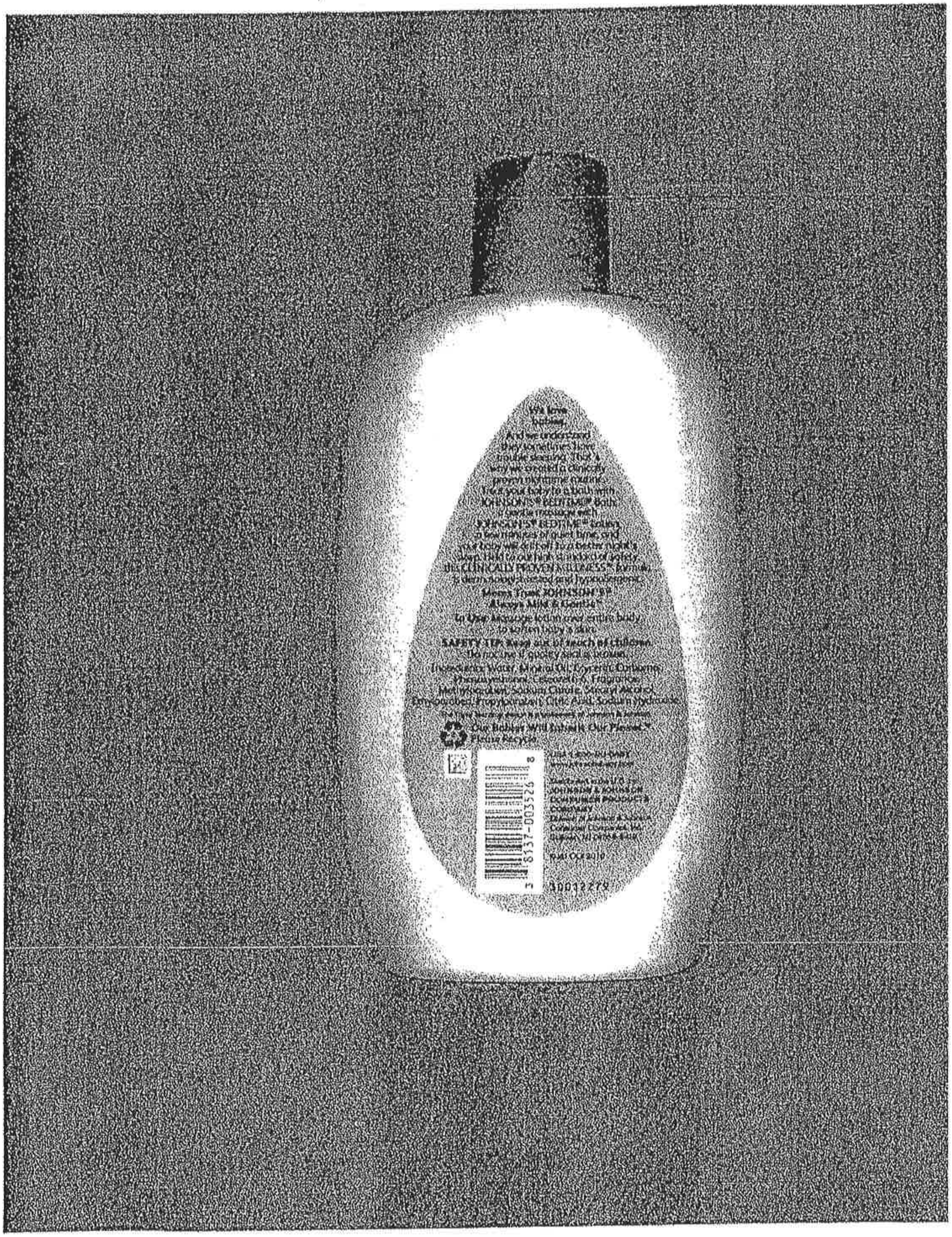
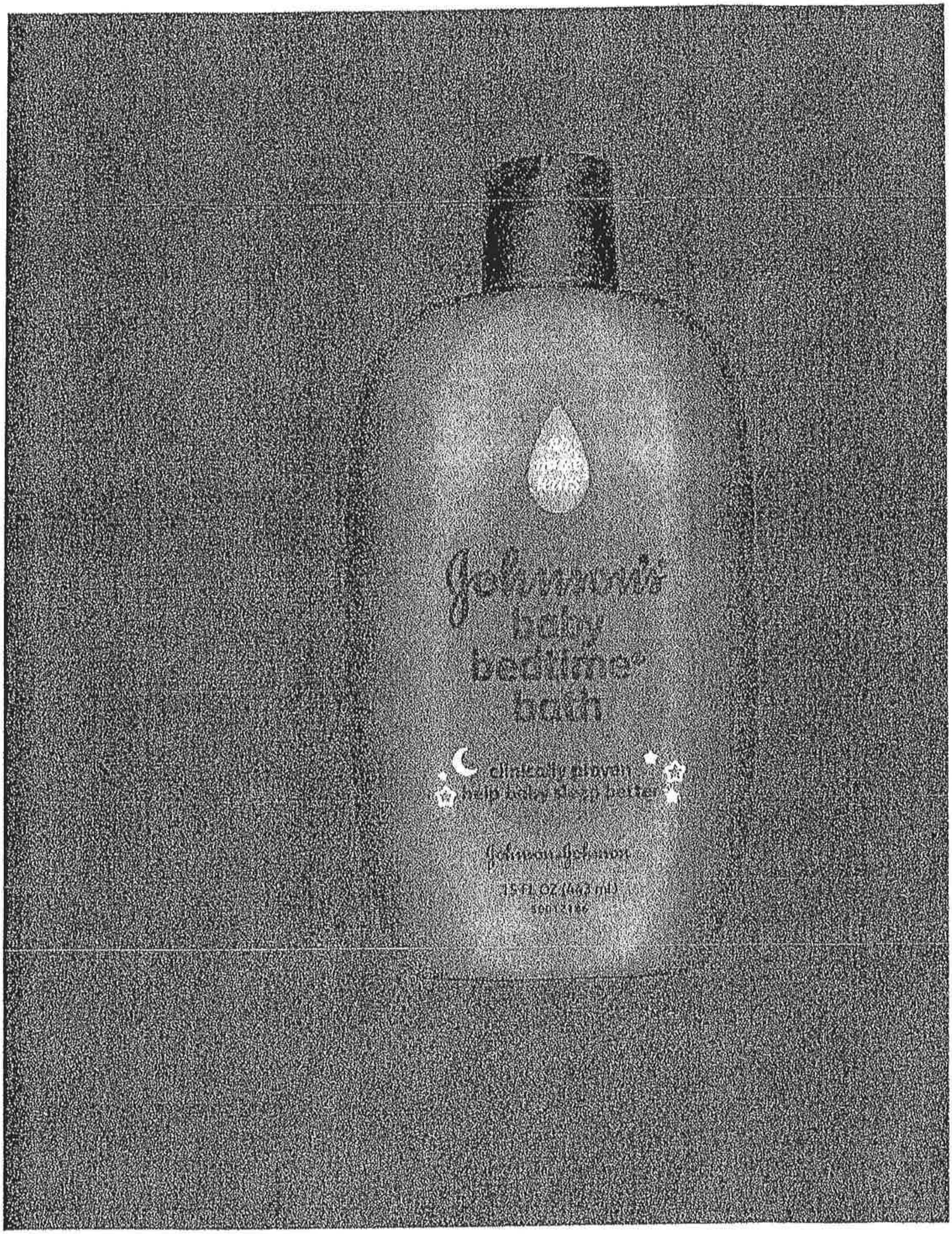

We love
babies.
And we understand
SAFETY TIP: Keep out of reach of children.
Please Recycle

Exhibit 2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help baby sleep better

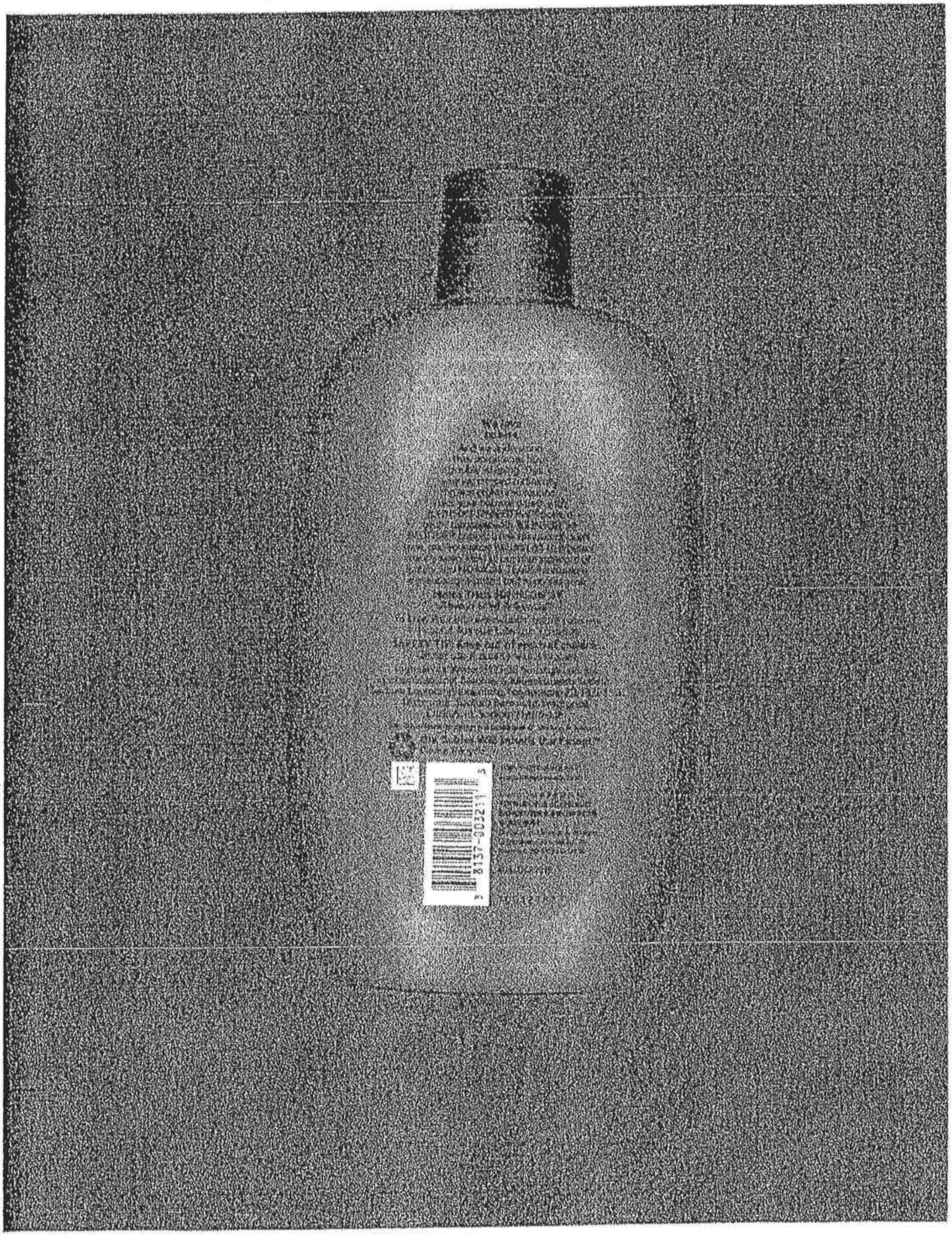


Exhibit 3

Johnson's

The Infant Sleep Guide

Between the ages of three and six months, your infant will be able to sleep for longer stretches at night. Which means you'll get a little more sleep than before. Congratulations! Now your baby is beginning to understand the difference between night and day, which makes it a perfect time to help improve their sleep time routine.

Put your infant to bed drowsy but awake.

The most important aspect of getting your baby to sleep through the night is to have your baby learn to soothe herself to sleep. Put your baby down to sleep when he or she is drowsy but awake. Babies need to be able to fall asleep independently, so that they can do the same when they wake in the middle of the night.*

How much sleep?

Your infant will sleep between 13 to 15 hours each day. It's important to realize though, that every baby is different and some will more sleep, while others need less. Your baby will also need to nap from two to four times a day.*

Habits to avoid.

Make sure your baby's nighttime routine is not too long or too impractical to stick to. Try to avoid rocking or nursing your baby to sleep, because you may end up doing the same when your baby naturally wakes up during the night. Consider this: is this a habit you want to be catering to six months from now, or two years from now? Take turns with your partner with putting your baby to bed to help avoid developing such habits.*

Create a loving nighttime routine.

To help ensure that your baby is getting the sleep he or she needs, build a consistent, **three-step** sleep routine that includes:

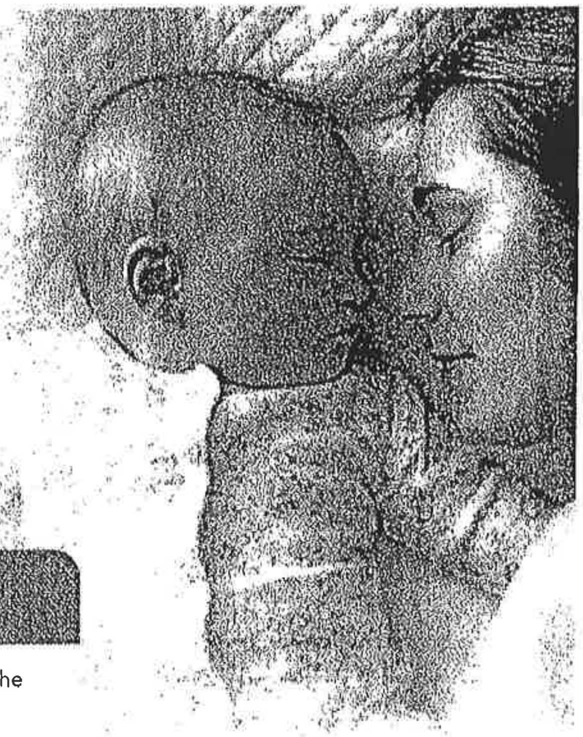
A warm bath ...... A soothing massage ...... & quiet time

These calming events help tell your baby, "It's time to settle down and go to sleep." You may also want to begin to establish a set time for sleep, a set wake time, and set naptimes. To learn more about creating a nighttime routine that will help your baby sleep better, visit JohnsonsBaby.com/sleep.

All ... Johnson & Johnson Services, Inc. 1997-2007. All Rights Reserved. Baby.com is owned and ...

Johnson's

The Infant Sleep Guide



Bathing is a good way to relax & bond with your baby.

You can help your baby relax before bed by including bathing into her nighttime routine. Warm water and a lullaby can help soothe your baby into the land of nod. Be sure to use a gentle cleanser suited for your baby.*

You can also try massage to help relax your baby.

Massage is a great way to relax your baby. It's also a wonderful way to bond with your baby.

To begin, lay a towel down to soften and add warmth to any flat surface. Start with your baby on her back. Be sure to keep your hand on your baby at all times when she's on the flat surface. Moisten your hands with a mild lotion specially made for babies, such as JOHNSON'S® BEDTIME TOUCH™ MASSAGE GEL, and warm the lotion in your hands. Begin massaging her head with gentle circular touches. Start with the forehead, temples, eyebrows, nose, ears, and around the mouth and jaw. Maintain eye contact with your baby, talking or singing to her the whole time.

Work your way down, rubbing across her shoulders and chest, in one fluid motion.Be sure to follow your baby's cues to know whether the touch is soothing. Make gentle, light, circular motions across her tummy. Continue down her arms, hands and fingers, one at a time. And finally, legs to feet, rubbing all ten toes. Turn your baby on her tummy and repeat the same massage.

Enjoy your baby's nighttime routine. When you include a bath and massage, and a moment of quiet time together it becomes a wonderful time to unwind together and to bond.

Our new products, enriched with NATURALCALM™ essences, a unique blend of gentle ingredients and soothing aromas, can help your baby sleep better when used as part of a regular nightly routine. JOHNSON'S® is the first and only brand that's clinically proven to help babies fall asleep easier and sleep through the night better. To learn more about our products, visit JohnsonsBaby.com/sleep.

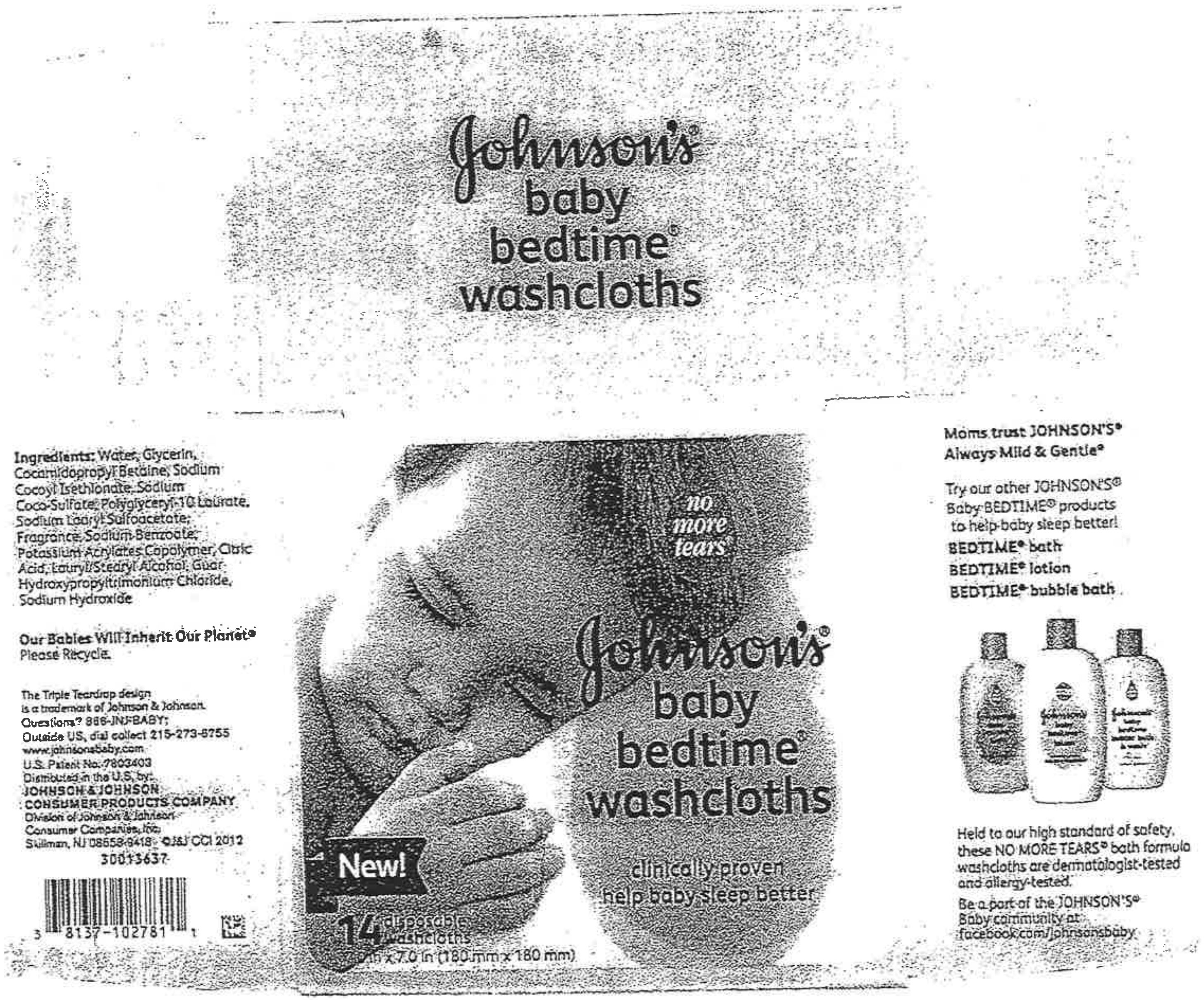
New Resource for Sleepy Babies (and Parents)

[illegible] Visit JohnsonsBaby.com/sleep [illegible]

*Adapted from Sleeping Through the Night: How Infants, Toddlers, and Their Parents Can Get a Good Night's Sleep [illegible] by [illegible] JOHNSON'S®

All contents © Copyright Johnson & Johnson Services, Inc. 1997-2007. All Rights Reserved. [illegible]

Exhibit 4


Johnson's baby bedtime washcloths
Ingredients: Water, Glycerin, Cocamidopropyl Betaine, Sodium Cocoyl Isethionate, Sodium Coco-Sulfate, Polyglyceryl-10 Laurate, Sodium Lauryl Sulfoacetate, Fragrance, Sodium Benzoate, Potassium Acrylates Copolymer, Citric Acid, Lauryl/Stearyl Alcohol, Guar Hydroxypropyltrimonium Chloride, Sodium Hydroxide
Our Babies Will Inherit Our Planet® Please Recycle.
The Triple Teardrop design is a trademark of Johnson & Johnson.
Questions? 866-JNJ-BABY; Outside US, dial collect 215-273-8755
www.johnsonsbaby.com
U.S. Patent No. 7803403
Distributed in the U.S. by: JOHNSON & JOHNSON CONSUMER PRODUCTS COMPANY Division of Johnson & Johnson Consumer Companies, Inc. Skillman, NJ 08558-9418 ©J&J CCI 2012
30013637
3 8137-102781 1
no more tears
Johnson's baby bedtime washcloths
clinically proven help baby sleep better
New!
14 disposable washcloths
7.0 in x 7.0 in (180 mm x 180 mm)
Moms trust JOHNSON'S® Always Mild & Gentle®
Try our other JOHNSON'S® Baby BEDTIME® products to help baby sleep better!
BEDTIME® bath
BEDTIME® lotion
BEDTIME® bubble bath
Held to our high standard of safety, these NO MORE TEARS® bath formula washcloths are dermatologist-tested and allergy-tested.
Be a part of the JOHNSON'S® Baby community at facebook.com/johnsonsbaby

We love babies.

And we understand they sometimes have trouble sleeping.

That's why we created a **clinically proven nighttime** routine.

Treat your baby to a warm bath with these easy-to-use **JOHNSON'S® Baby BEDTIME®** washcloths

a gentle massage with **JOHNSON'S® Baby BEDTIME®** lotion

a few minutes of quiet time, and your baby will drift off to a better night's sleep.

To Use:

1. Moisten washcloth and lather by rubbing it gently between your fingers
2. Wash your baby's hair and body
3. Gently rinse your baby with the washcloth, diluting the wash formula with more and more water
4. Discard washcloth in trash after use, dry and snuggle your baby

Store in cool, dry place.

Do not leave box in tub or shower.

Do not use if box has been opened.

SAFETY TIP: Keep out of reach of children.

lift here to open

ultra-soft cloths

Exhibit 5

Share Español

Johnson's baby

« go back to JOHNSON'S® BABY BEDTIME®

Clinically Proven to Help Baby Fall Asleep Faster.

Treat your baby to a warm bath with JOHNSON'S® Baby BEDTIME® Bath,a gentle massage with JOHNSON'S® Baby BEDTIME® Lotion, and a few minutes of quiet time, and help your baby drift off to a better night's sleep.

Step 1: A Warm Bath with JOHNSON'S® Baby BEDTIME® Bath

Help your little one let go of the day's excitement with a warm bath. JOHNSON'S® Baby BEDTIME® Bath is formulated with NATURALCALM® essences - a special blend of calming aromas. Held to our high standard of safety, this NO MORE TEARS® formula is as gentle to the eyes as pure water.

For a bubblier start to your nighttime routine, try JOHNSON'S® Baby BEDTIME® Bubble Bath & Wash!

Step 2: A Gentle Massage with JOHNSON'S® Baby BEDTIME® Lotion

Follow the bath with a gentle massage. JOHNSON'S® Baby BEDTIME® Lotion is formulated with NATURALCALM® essences, a special blend that releases soothing aromas. Clinically shown to last all night long, this CLINICALLY PROVEN MILDNESS™ lotion formula is dermatologist-tested and hypoallergenic.

Step 3: Quietly Off to Sleep

After a warm bath and soothing massage, ease your little one off to sleep with quality quiet time together. Read a story, sing a lullaby or just quietly enjoy each other's warmth. Choose what works for you and your little one, but to ensure a good night's sleep, your quiet time shouldn't exceed twenty minutes.

A warm bath with JOHNSON'S® Baby BEDTIME® Bath, a gentle massage with JOHNSON'S® Baby BEDTIME® Lotion, and a few minutes of quiet time. It's the clinically proven routine that leaves more time to dream.

Shop JOHNSON'S® Baby BEDTIME®

Save $2
on any two JOHNSON'S® Baby BEDTIME® products.
Get coupon now

« go back to JOHNSON'S® BABY BEDTIME®

Johnson & Johnson FAMILY OF CONSUMER COMPANIES
Get Coupons & Offers! Save on the products you love at HEALTHY ESSENTIALS® Start saving →

Contact Us FAQ Our Safety & Care Commitment Where to Buy Legal Privacy Policy Site Map Healthcare Professionals

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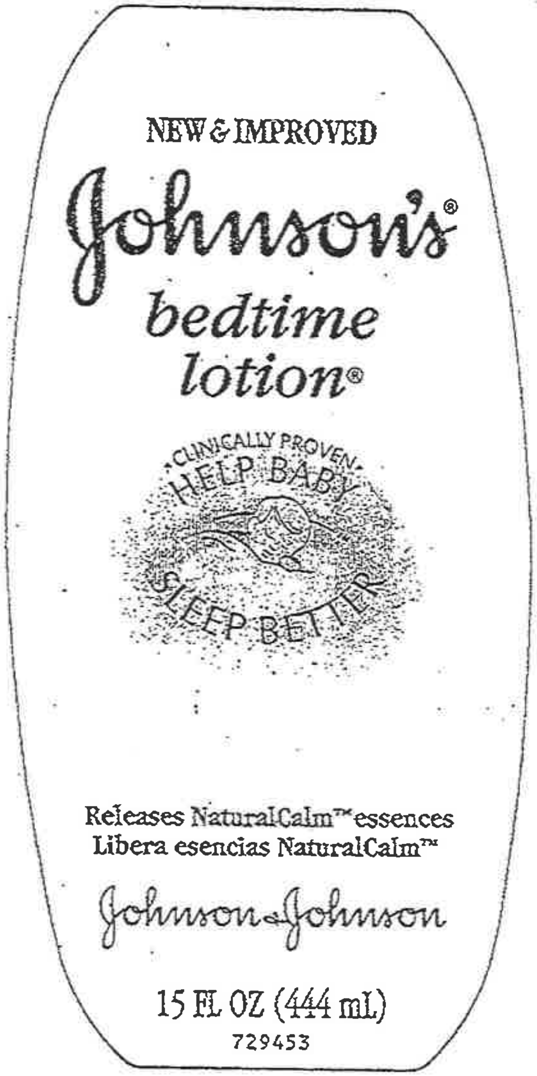
This site contains links to websites to which our Privacy Policy does not apply. We encourage you to read the privacy policy of every website you visit.

Exhibit 6


NEW & IMPROVED
Johnson's®
bedtime
lotion®
CLINICALLY PROVEN
HELP BABY
SLEEP BETTER
Releases NaturalCalm™ essences
Libera esencias NaturalCalm™
Johnson & Johnson
15 FL OZ (444 mL)
729453

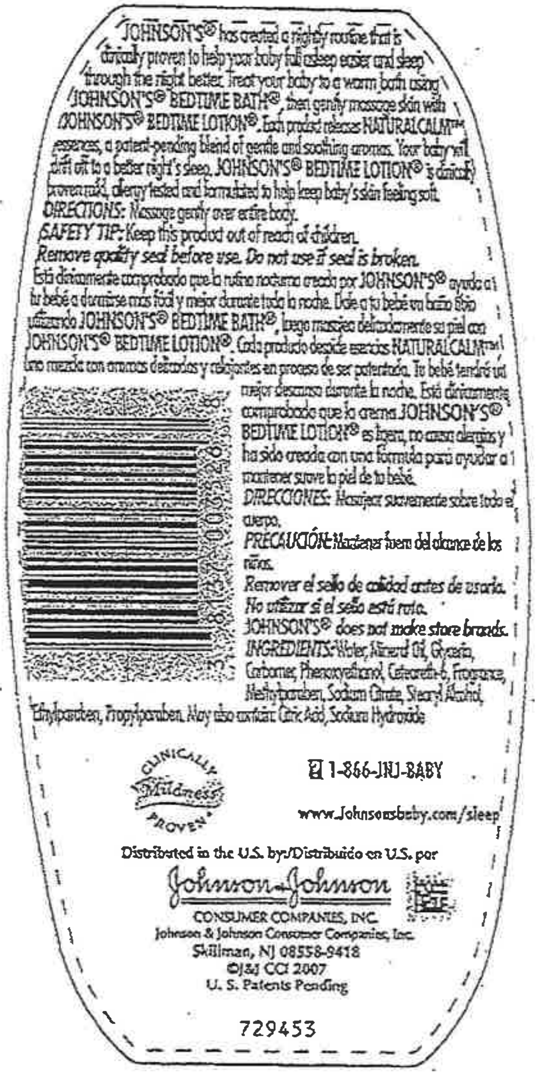
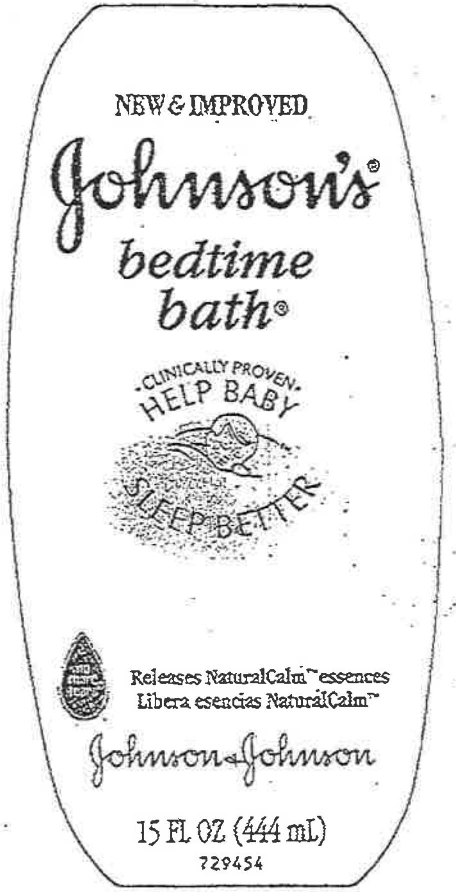

JOHNSON'S® has created a nightly routine that is clinically proven to help your baby fall asleep easier and sleep through the night better. Treat your baby to a warm bath using JOHNSON'S® BEDTIME BATH®, then gently massage skin with JOHNSON'S® BEDTIME LOTION®. Each product releases NATURALCALM™ essences, a patent-pending blend of gentle and soothing aromas. Your baby will drift off to a better night's sleep. JOHNSON'S® BEDTIME LOTION® is clinically proven mild, allergy tested and formulated to help keep baby's skin feeling soft.
DIRECTIONS: Massage gently over entire body.
SAFETY TIP: Keep this product out of reach of children.
Remove quality seal before use. Do not use if seal is broken.
Está clínicamente comprobado que la rutina nocturna creada por JOHNSON'S® ayuda a tu bebé a dormirse más fácil y mejor durante toda la noche. Dale a tu bebé un baño tibio utilizando JOHNSON'S® BEDTIME BATH®, luego masajea delicadamente su piel con JOHNSON'S® BEDTIME LOTION®. Cada producto despide esencias NATURALCALM™, una mezcla con aromas delicados y relajantes en proceso de ser patentada. Tu bebé tendrá un mejor descanso durante la noche. Está clínicamente comprobado que la crema JOHNSON'S® BEDTIME LOTION® es ligera, no causa alergias y ha sido creada con una fórmula para ayudar a mantener suave la piel de tu bebé.
DIRECCIONES: Masajear suavemente sobre todo el cuerpo.
PRECAUCIÓN: Mantener fuera del alcance de los niños.
Remover el sello de calidad antes de usarlo.
No utilizar si el sello está roto.
JOHNSON'S® does not make store brands.
INGREDIENTS: Water, Mineral Oil, Glycerin, Carbomer, Phenoxyethanol, Ceteareth-6, Fragrance, Methylparaben, Sodium Citrate, Stearyl Alcohol, Ethylparaben, Propylparaben. May also contain: Citric Acid, Sodium Hydroxide
CLINICALLY Mildness PROVEN
1-866-JNJ-BABY
www.Johnsonsbaby.com/sleep
Distributed in the U.S. by:/Distribuido en U.S. por
Johnson & Johnson
CONSUMER COMPANIES, INC.
Johnson & Johnson Consumer Companies, Inc.
Skillman, NJ 08558-9418
©J&J CCI 2007
U. S. Patents Pending
729453

Exhibit 7


NEW & IMPROVED
Johnson's®
bedtime
bath®
CLINICALLY PROVEN
HELP BABY
SLEEP BETTER
Releases NaturalCalm™ essences
Libera esencias NaturalCalm™
Johnson & Johnson
15 FL OZ (444 mL)
729454

SAFETY TIP: Keep this product out of reach of children.
Remove quality seal before use. Do not use if seal is broken.
PRECAUCIÓN: Mantener fuera del alcance de los niños.
Remover el sello de calidad antes de usarlo. No utilizar si el sello está roto.
JOHNSON'S® does not make store brands.
INGREDIENTS: Water, PEG-80 Sorbitan Laurate, Cocamidopropyl Betaine, Sodium Laureth Sulfate, Sodium Lauroamphoacetate, Polysorbate 20, PEG-150 Distearate, Sodium Benzoate, Fragrance. May also contain: Citric Acid
1-866-JNJ-BABY
www.Johnsonsbaby.com/sleep
Distributed in the U.S. by/Distribuido en U.S. por
Johnson & Johnson
CONSUMER COMPANIES, INC.
Skillman, NJ 08558-9418
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U.S. Patents Pending
729454

Exhibit 8

ASA Adjudication on Johnson & Johnson Ltd

Johnson & Johnson Ltd

The Braccans
London Road
Bracknell
Berkshire
RG12 2AT

Date:

30 April 2008

Media:

Magazine

Sector:

Health and beauty

Number of complaints:

1

Agency:

Lowe London

Complaint Ref:

46036

Ad

A magazine ad, for Johnson's Baby Bedtime bath and lotion, stated "Kiss goodbye to sleepless nights. Putting your baby down for the night can now be the highlight of the day thanks to Johnson's Baby. Our new Bedtime Bath and Bedtime Lotion routine has NaturalCalm, a unique blend of gentle, soothing aromas. In fact, ours is the first and only Clinically Proven routine to help your baby sleep better".

Issue

1. The complainant challenged whether Johnson & Johnson could substantiate the

claims that the routine could help babies sleep better.

2. The ASA challenged whether the ad misleadingly implied that Johnson & Johnson's products specifically, as part of the routine, had been proven to help babies sleep better and whether the ad implied the routine had been proven to work for babies of all ages.

CAP Code (Edition 11)

3.17.150.1

Response

1. Johnson & Johnson Ltd (Johnson's) said their Bedtime bath and lotion routine consisted of three steps. The first step was to bath the baby in a warm bath that contained Johnson's Baby Bedtime Bath. The second step was to massage the baby with Johnson's Baby Bedtime Lotion and the third was quiet time, which involved helping the baby to wind down by singing gently or reading to the baby or feeding him or her. They said the claim "clinically proven to help babies sleep better" was fully substantiated by a clinical study conducted before the product launch. They said a leading paediatric sleep expert, who was internationally recognised for her expertise in paediatric sleep disorders, was the sub-investigator in the study. They said the study's aim was to examine the effects on babies' sleep of a consistent pre-bedtime routine, which included the use of Johnson's Baby Bedtime Bath and Johnson's Baby Bedtime Lotion. They provided details of the study and said it provided support for the claims "fall asleep faster", "sleep longer" and "sleep better" in association with the bedtime routine.

Johnson's said the claim "Kiss goodbye to sleepless nights" was a play on words to reflect both the visual of the relaxed looking mother kissing her baby goodnight and the results of the study, which showed that a significant proportion of babies went to sleep faster, slept for longer and awoke less often during the night after adopting their bedtime routine. They believed consumers were unlikely to interpret the claim literally and therefore would not be misled.

2. Johnson's said it was not their intention to imply that it was their products alone that contributed to the improvement in sleep. They said it was obvious from the ad that they were promoting a routine. They said the study had compared the Johnson's bedtime routine against a control group. The parents in the control group had maintained their infant's existing night-time routine, which could include other bath products. They said that because they knew bath time in particular, and also massage, were very common pre-bedtime activities, they could assume that bath products other than Johnson's were used in the control group. They believed a routine that used other products had not been clinically proven to help babies sleep

better.

Johnson's said the study was carried out on babies between seven and 18 months of age, because seven months was the age at which normal sleep patterns were established. It was also a safety measure because that was when most babies could sit unaided in a bath. They said the ad showed an image of a baby who looked older than six months and that was therefore consistent with the study.

Johnson's said they had no plans to use the ad again.

Assessment

1. Not upheld

The ASA noted the study provided by Johnson's demonstrated that babies subjected to a before-bed routine using Johnson's products slept for longer, went to sleep faster and woke less often during the night than the babies in the control group. We noted the study had been conducted under the supervision of an independent expert in the field and had produced clinically relevant results. We concluded that the study demonstrated that the bedtime routine used could help babies sleep better. We also considered that readers were likely to interpret the claim "kiss goodbye to sleepless nights" in the context of the "help babies sleep better" claim and were unlikely to understand it as a guarantee that all babies would sleep at night if they were subjected to the routine.

On this point, we investigated the ad under CAP Code clauses 3.1 (Substantiation) and 50.1 (Health & Beauty Products and therapies) but did not find it in breach.

2. Upheld

We noted the control group in the study provided by Johnson's had consisted of mothers and babies carrying out their normal bedtime routine. Because there had not been a control group that carried out the 'bath, massage and quiet time' routine but without Johnson's products, we considered that the study did not demonstrate that it was specifically the addition of Johnsons' Bedtime Bath and Bedtime Lotion to the routine that produced the results. We considered that the claim "Putting your baby down for the night can now be the highlight of the day thanks to Johnson's Baby" and "Our new Bedtime Bath and Bedtime Lotion routine has NaturalCalm, a unique blend of gentle, soothing aromas" suggested that Johnson's products played a key part in helping babies sleep better, rather than the nature of the routine itself, i.e. a baby having a bath, a massage and 'quiet time' before bed.

We also noted the study had only been carried out on babies aged seven months and older. We acknowledged there were safety reasons why babies of that age had been used in the study but we considered that, in the absence of qualification, and because the image of the baby in the ad was not noticeably older than seven months, readers were likely to infer from the ad that the routine had been proven to work for babies of any age.

Because Johnsons had not specifically demonstrated that it was the use of their products in the suggested bedtime routine that was proven to help babies sleep better, and because the ad did not make clear that the routine had only been proven to work for babies over seven months old, we concluded that the ad was likely to mislead.

On this point, the ad breached CAP Code clauses 3.1 (Substantiation), 7.1 (Truthfulness) and 50.1 (Health & beauty products and therapies).

Action

We noted Johnson's did not intend to repeat the ad. We told them to ensure that any similar advertising did not suggest that Johnson's products, as part of the bedtime routine, had been proven to help babies sleep better and to make clear that the routine had been proven to work only for babies over seven months. We advised Johnsons to seek guidance from the CAP Copy Advice team on similar advertising in future.

Adjudication of the ASA Council (Non-broadcast)

delicious digg reddit facebook stumbleupon

Appendix XII-B1

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial Law Division
Civil Part pleadings (not motions) under *Rule* 4:5-1
Pleading will be rejected for filing, under *Rule* 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed

FOR USE BY CLERK'S OFFICE ONLY
PAYMENT TYPE: ☐ CK ☐ CG ☐ CA
CHG/CK NO.
AMOUNT:
OVERPAYMENT:
BATCH NUMBER:

ATTORNEY / PRO SE NAME John W. Trimble, Jr., Esquire	TELEPHONE NUMBER (856) 232-9500	COUNTY OF VENUE Camden
FIRM NAME (if applicable) Trimble & Armano		DOCKET NUMBER (when available) L-2557-15
OFFICE ADDRESS 900 Route 168, Suite B2 Turnersville, NJ 08012		DOCUMENT TYPE Complaint
		JURY DEMAND ■ YES ☐ NO

NAME OF PARTY (e.g., John Doe, Plaintiff)
JILLIAN GALLAGHER, On Behalf of Herself and All Others Similarly Situated,

CAPTION
JILLIAN GALLAGHER, On Behalf of Herself and All Others Similarly Situated, vs. JOHNSON & JOHNSON CONSUMER COMPANIES, INC.

CASE TYPE NUMBER (See reverse side for listing)
999

HURRICANE SANDY RELATED? ☐ YES ■ NO

IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ■ NO
IF YOU HAVE CHECKED "YES," SEE *N.J.S.A.* 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.

RELATED CASES PENDING? ☐ YES ■ NO

IF YES, LIST DOCKET NUMBERS

DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ■ YES ☐ NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ■ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ■ NO

IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS

DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ■ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION

CLASS ACTION

JUL - 2 2015

2015 JUL -2 AM 10: 28

DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ■ NO
IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION

WILL AN INTERPRETER BE NEEDED? ☐ YES ■ NO
IF YES, FOR WHAT LANGUAGE?

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b).

ATTORNEY SIGNATURE:

Side 2

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule* 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

151 NAME CHANGE
175 FORFEITURE
302 TENANCY
399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
502 BOOK ACCOUNT (debt collection matters only)
505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
506 PIP COVERAGE
510 UM or UIM CLAIM (coverage issues only)
511 ACTION ON NEGOTIABLE INSTRUMENT
512 LEMON LAW
801 SUMMARY ACTION
802 OPEN PUBLIC RECORDS ACT (summary action)
999 OTHER (briefly describe nature of action)
CLASS ACTION

Track II - 300 days' discovery

305 CONSTRUCTION
509 EMPLOYMENT (other than CEPA or LAD)
599 CONTRACT/COMMERCIAL TRANSACTION
603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
605 PERSONAL INJURY
610 AUTO NEGLIGENCE – PROPERTY DAMAGE
621 UM or UIM CLAIM (includes bodily injury)
699 TORT – OTHER

Track III - 450 days' discovery

005 CIVIL RIGHTS
301 CONDEMNATION
602 ASSAULT AND BATTERY
604 MEDICAL MALPRACTICE
606 PRODUCT LIABILITY
607 PROFESSIONAL MALPRACTICE
608 TOXIC TORT
609 DEFAMATION
616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
617 INVERSE CONDEMNATION
618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
303 MT. LAUREL
508 COMPLEX COMMERCIAL
513 COMPLEX CONSTRUCTION
514 INSURANCE FRAUD
620 FALSE CLAIMS ACT
701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

271 ACCUTANE/ISOTRETINOIN
274 RISPERDAL/SEROQUEL/ZYPREXA
278 ZOMETA/AREDIA
279 GADOLINIUM
281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL
282 FOSAMAX
285 STRYKER TRIDENT HIP IMPLANTS
286 LEVAQUIN
287 YAZ/YASMIN/OCELLA
288 PRUDENTIAL TORT LITIGATION
289 REGLAN
290 POMPTON LAKES ENVIRONMENTAL LITIGATION
291 PELVIC MESH/GYNECARE
292 PELVIC MESH/BARD
293 DEPUY ASR HIP IMPLANT LITIGATION
295 ALLODERM REGENERATIVE TISSUE MATRIX
296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS
297 MIRENA CONTRACEPTIVE DEVICE
601 ASBESTOS
623 PROPECIA

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics.

Please check off each applicable category ☐ **Putative Class Action** ☐ **Title 59**

CAMDEN COUNTY
SUPERIOR COURT
HALL OF JUSTICE
CAMDEN NJ 08103

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (856) 379-2200
COURT HOURS 8:30 AM - 4:30 PM

DATE: JULY 06, 2015
RE: GALLAGHER VS JOHNSON & JOHNSON CONSUMER COMPANIES
DOCKET: CAM L -002557 15

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON DAVID M. RAGONESE

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 201 AT: (856) 379-2200 EXT 3070.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.

PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE WITH R.4:5A-2.

ATTENTION:

ATT: JAMES C. SHAH
TRIMBLE & ARMANO
WASHINGTON PROFESSIONAL CAMPUS
900 ROUTE 168 SUITES B1 B2
TURNERSVILLE NJ 08012-3205

JUAXT5

TRIMBLE & ARMANO
By: Katrina M. Geary, Esquire
Attorney ID No.: 011382011
Washington Professional Campus
900 Route 168, Suites B1- B2
Turnersville, NJ 08012
Phone: (856) 232-9500
Attorneys for Plaintiffs

JILLIAN GALLAGHER, On Behalf of Herself and All Others Similarly Situated, *Plaintiff* vs. JOHNSON & JOHNSON CONSUMER COMPANIES, INC. *Defendant.*	**SUPERIOR COURT OF NEW JERSEY** **LAW DIVISION** **CAMDEN COUNTY** **DOCKET NO: L-2557-15** ***Civil Action*** **ACKNOWLEDGMENT OF SERVICE OF COMPLAINT & SUMMOMS**

To: **Mark A. Neubauer, Esquire**
Attorney at Law
2000 Avenue of the Stars
Suite 530 North Tower
Los Angeles, California 90067-4707

SERVICE of the annexed Class Action Complaint and Summons on behalf of the defendant, **JOHNSON & JOHNSON CONSUMER COMPANIES, INC.**, is hereby acknowledged this 4th day of August, 2015.

Mark Neubauer

MARK A. NEUBAUER, ESQUIRE

Trimble & Armano
Attorneys at Law
900 Route 168
Suites B1-B2
Turnersville, NJ 08012

EXHIBIT B

COPY

MCCARTER
&ENGLISH
ATTORNEYS AT LAW

August 12, 2015

VIA ELECTRONIC FILING

Clerk
United States District Court
Mitchell H. Cohen Building
& U.S. Courthouse 4th & Cooper Streets
Camden, NJ 08101

Re: *Jillian Gallagher, On Behalf of Herself and All Others Similarly Situated v. Johnson & Johnson Consumer Companies, Inc.*

David R. Kott
Partner
T. 973.639.2056
F. 973.624.7070
dkott@mccarter.com

Dear Sir/Madam:

Enclosed for filing are the following:

1. Notice of Removal and Copies of all Process and Pleadings;

2. Civil Cover Sheet;

3. Certification of Service.

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102-4056
T. 973.622.4444
F. 973.624.7070
www.mccarter.com

Very truly yours,

David R. Kott

DRK/nrm
Enclosures

BOSTON

HARTFORD

STAMFORD

NEW YORK

NEWARK

EAST BRUNSWICK

PHILADELPHIA

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WASHINGTON, DC

cc: Clerk of Camden County (w/enc., via reg. mail)
Docket No. CAM-L-2557-15
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